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SUBJECT: WORKING GROUP ON FOLLOW-UP TO DURBAN DECLARATION

¶1. (U) Summary: The intergovernmental working group on the effective implementation of the Durban Declaration and Programme of Action met for the first part of its fifth session March 5-9 chaired by Chilean Permanent Representative Juan Martabit. Main areas of contention remain the inclusion of sexual orientation as a category for discrimination and inclusion of defamation of religion. The EU opposes the inclusion of defamation while the OIC and African Group reject any discussion of the inclusion of sexual orientation. Except for one mention by the UK, freedom of expression went largely unaddressed in this debate. The second part of the working group's session is scheduled to meet in September to discuss complementary standards and further address the work of the experts designated to identify gaps in the CERD. USDel observed the meeting and did not speak. End Summary.

¶2. (SBU) Many delegations across regional groupings expressed frustration about the lack of transparency in the operations of OHCHR's Anti-Discrimination Unit (ADU). Questions from delegations on the effectiveness and administration of the unit went largely unanswered. Delegations questioned whether the ADU's technical assistance to countries in elaborating national plans of action on anti-discrimination was actually effective. The ADU representative dodged questions about budgetary and staffing practices, as well as ADU's four different leaders over the past three years. The African group expressed concern that the ADU lacked sufficient support to ensure effective follow-up and requested that the ADU receive more staffing and funding. (Note: On this point, our ADU contact noted dryly that all the resources in the world could not help the ADU function more effectively since the mandate and instructions given to it by Council members remained as ill-defined and contradictory as ever. End note.)

¶3. (U) While delegations from the EU and Western Group argued that Durban must address everything from racial discrimination to homophobia, members of the African group and OIC were adamant that sexual orientation be excluded, arguing that Durban focus solely on racial discrimination and defamation of religion. There was heated debate over the inclusion of sexual orientation, referring to the adoption of Durban and the fact that it was not explicitly included. Belgium declared that it had only adopted Durban on the grounds that Article 2 was broad enough in scope to cover sexual orientation. These remain hotly contested issues in regard to the elaboration of amendments or optional protocols to "update" Durban to reflect current trends in discrimination. Many delegations noted the tension between national commitments to end racism and implementation of those obligations, both domestically and internationally. There was large support from EU, Western Group and OAS members, to address multiple and aggravated forms of discrimination in the Durban framework.

¶4. (U) Various delegations underlined that the report emerging from this session would be provisional, and would need to be amended after the second half of the session in September. The draft report considered on the last day did not reflect any of the debate over sexual orientation and defamation of religion, but rather focused on the responsibility of states in elaborating national action plans and eliminating discrimination in a national context.  
TICHENOR